



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

OFFICE OF THE
REGIONAL ADMINISTRATOR

February 3, 2012

Ms. Colleen Pelles Madrid
Forest Supervisor
Green Mountain National Forest
231 North Main Street
Rutland, Vermont 05701

RE: Comments on the Deerfield Wind Project Final Environmental Impact Statement and Record of Decision, Towns of Searsburg and Readsboro, Vermont CEQ# 20110443

Dear Ms. Madrid:

The United States Environmental Protection Agency-New England Region (EPA) has reviewed the United States Forest Service's (FS) Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Deerfield Wind Project. We submit the following comments on the FEIS in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The action under consideration by the FS is whether to grant a Special Use Permit to the project proponent, Deerfield Wind, LLC (Deerfield or the company), to authorize it to construct and operate a commercial wind energy facility on public land within the Green Mountain National Forest (GMNF). Options open to the FS include (a) granting a permit for the project as proposed by Deerfield, (b) granting a permit for a modified project, or (c) denying the permit application. The FS has used its environmental review under NEPA to help inform its decision-making and explain its ultimate decision to the public.

Consistent with the DSEIS, the FEIS details Deerfield's proposal to construct and operate a 17-turbine, 34 MW commercial wind energy facility within the GMNF. The facility would occupy approximately 80 acres of land within the GMNF, with wind turbines located on two ridge lines – one to the east, and the other to the west, of Route 8 – in the Towns of Searsburg and Readsboro, Vermont. The eastern project area is adjacent to the existing 11-turbine/six MW Green Mountain Power wind facility, which has been in operation since 1997 on 35 acres of privately held land adjacent to the GMNF. Deerfield's proposal would require approximately 4.3 miles of new roads for construction and maintenance of the wind turbines, and approximately 5.4 miles of new transmission lines and a substation to deliver power to the existing 69 KV

transmission line north of the project site. In addition to considering permitting the project as proposed by Deerfield, the FS also considered alternative actions, including “No Action” (i.e., denial of the permit application), “Alternative 2” (granting a permit for a 15-turbine project with a reduced number of wind turbines on the western project site), and “Alternative 3” (granting a permit for a 7-turbine array on the eastern project site only).

The purpose of the proposed project, as described in the ROD, is to meet the 2006 Forest Plan goals and objectives, and to “work toward meeting the goals and objectives of the May 2001 National Energy Policy as expressed in federal law and policy including Executive Orders 13212, 13423, and 13514 and the Energy Policy Act of 2005....” The ROD also notes that the purpose of and need for the project is also to consider the applicant’s “site specific wind energy development proposal,” while also considering the Vermont Public Service Board findings for the project. The ROD selects Alternative 2 as the FS’s preferred action, which will entail the FS authorizing construction and operation of a 15-turbine project with a reduced number of wind turbines on the western ridge, as compared to Deerfield Wind’s 17-turbine proposal. This project would occupy lands within the Green Mountain National Forest (GMNF).

EPA has been involved in the review of the proposed Deerfield Wind Project since 2005, when we issued NEPA scoping comments on the project. We subsequently commented on the FS’s DEIS in 2008 and its Supplemental DEIS in 2011. We also offered informal comments on an administrative draft copy of the FEIS (AFEIS) in late 2011.

Throughout the review process, EPA has expressed support for the development of appropriately sited, well designed renewable energy generation facilities that will help meet goals for renewable energy production and reduced greenhouse gas emissions. At the same time, in an effort to contribute to the best possible decision-making, EPA offered comments on the SDEIS that addressed a variety of issues, including those related to alternatives, water quality, adverse impact mitigation, wetland and stream impacts, and impacts to bear habitat. We have reviewed the FS’s analysis and decision, including its responses to our comments, as presented in the FEIS and the ROD. On this basis, EPA does not object to the FS decision to grant a Special Use Permit for a wind energy project modified in accordance with Alternative 2.

At the same time, EPA provides the comments and recommendations detailed below to highlight issues we have raised throughout the review process concerning the choice of alternatives for evaluation and the need for a comprehensive and adaptable monitoring, mitigation, and management program to address both expected and unanticipated impacts from the project. EPA also remains strongly interested in closely coordinating with the FS on these outstanding issues and in enhancing our coordination in the future for similar projects.

Alternatives

EPA appreciates the work done by the FS to respond to our comments on the SDEIS regarding alternatives. Specifically, we note the changes to the text to more fully explain that the FS views Alternative 3 (Turbines on the Eastern Project Site only), and, in fact, all of the alternatives considered in depth in the EIS, as “viable” alternatives for “detailed evaluation and selection.” This was unclear in the text of the SDEIS and the expanded discussion in the FEIS and ROD is helpful in that regard. The ROD also clearly states the FS’s conclusion that Alternative 3 is the environmentally preferable alternative because it would produce emissions free energy with fewer adverse environmental impacts from construction and operation, as compared to the other larger alternatives under consideration. At the same time, the ROD explains that the FS did not select Alternative 3 as its proposed action because it concluded that:

Alternative 3 would result in only a relatively small amount of positive benefits associated with reducing current emissions (such as CO₂) from existing fossil fuel-fired power plants, and helping reduce use of fossil fuels over the long-term. Thus, it does not address concerns about climate change and global warming as well as Alternative 2. It produces only 41,943 MWh of emissions free electricity (see DEIS Table 2.5-1), well less than one-half that produced by Alternative 2. I do not feel it makes a meaningful contribution toward meeting Vermont’s Renewable Portfolio Standards, nor does it move substantially toward developing long-term energy cost stability in Vermont and the region. ROD at p. 26.

The FS’s ROD further explains:

I did not select this alternative for implementation, however, because I believe that Alternative 2 will provide over twice as much CO₂ reductions annually when compared to Alternative 3, and thus provide more robust beneficial impacts to address climate change issues. I am satisfied that the increased environmental effects from Alternative 2 compared to Alternative 3 will be offset by the required design criteria, mitigation measures, and research and monitoring that have been developed to lessen or eliminate adverse impacts (see FEIS Appendices A and H). Of particular importance to me are the mitigation and monitoring requirements developed to address concerns associated with black bear habitat, avian and bat mortality, water and soil resources, and visual quality. It is these factors, combined with application of effective adaptive techniques, which have led me to select Alternative 2 for implementation in this ROD rather than the environmentally preferable alternative. ROD at p. 27.

Finally, the ROD also explains that the FS:

... seriously considered the staged build-out approach suggested by the ANR but again, believe the impacts of the western ridge build-out are acceptable. The analysis showed that impacts to bears and bear habitat on the eastern ridge are quite different than what would be expected on the western ridge, and therefore, I do not believe that monitoring of the eastern ridge development would produce meaningful results that could guide possible expansion onto the western ridge. ROD at p. 27.

As EPA has indicated in our prior comments, environmentally responsible renewable energy generation must be pursued at many different scales to achieve our Nation's overall goals for cleaner energy. EPA commends the FS for making clear that it regarded projects smaller than Deerfield's proposal, such as Alternative 3, to be viable alternatives, and for considering the option of commencing with Alternative 3 in a phased approach. At the same time, we understand and respect the FS's clearly stated rationale for why it selected Alternative 2.

Related to these points, EPA wishes to clearly respond to FS response 169C (at p. 101, Appendix J of the FEIS). In this response to EPA's request for a more complete analysis of the viability of smaller scale wind power projects on the GMNF, the FS states that by conducting such a review of "...small scale alternatives within this Project-specific EIS, the Forest Service would be changing the purpose and need to a different kind of project from a commercial utility-scale project." The response further notes that, "...not fairly evaluating the proposal based on its actual purpose would be tantamount to outright rejecting the application."

This FS response does not accurately characterize EPA's comments on the DEIS. EPA did not suggest that the purpose and need for the action be changed or that alternatives should not be evaluated based on the established purpose and need. EPA also did not state or imply that the applicants' proposal should be rejected or not fairly evaluated. In an EIS, defining the purpose and need is instrumental in guiding the selection of an appropriate range of alternatives for analysis. In addition, CEQ regulations are clear that alternatives to be evaluated are not limited to only those that are proposed or preferred by the project proponent (40 CFR §1502.14). EPA's participation and comments have been consistent throughout this NEPA process in recommending that the FS investigate whether there were other opportunities for smaller-scale project sites on GMNF lands. EPA continues to hold this view. Indeed, FS Response 169C appears inconsistent with the ROD's statement that smaller scale projects, such as Alternative 3, meet the project purpose and need and were considered viable projects. While the FEIS and ROD provide an improved explanation of the FS's decision-making process with regard to the alternatives that received detailed consideration, it remains unclear whether other viable, though

smaller, utility scale sites are available and could have been considered a reasonable alternative for evaluation in the DEIS and FEIS. A more direct response to our comment and analysis of this issue would have made the FS's NEPA documents clearer and more comprehensive.

Impacts

EPA's comments to date have noted serious environmental concerns with regard to the adverse effects that a wind energy facility in affected area of the GMNF could potentially have on bear habitat, bat populations, and streams and wetlands. As indicated in the above-quoted language from the ROD, the FS shares these environmental concerns. At the same time, the FS has concluded that these concerns can effectively be addressed by the small reduction in project size represented by Alternative 2, coupled with the specified mitigation requirements, and an active program of adaptive management. As discussed below, EPA is eager to assist in this effort going forward.

Monitoring, Mitigation & Management

The CEQ Regulations at 40 CFR 1505.2 (c) require that the ROD for an EIS, "[s]tate whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation." The ROD and FEIS provide a strong starting point for the development of monitoring, research, mitigation and management plans and protocols for the project that will help the FS to more fully understand and respond to potential direct and indirect impacts to birds, bats, bears, water quality, geology, soils and other issues. Based on our review of the discussion of these issues in the FEIS and Attachments 1 & 2 of the ROD, we offer the following comments/recommendations:

- Under Key Monitoring and Research Questions (found in several locations in the ROD), we recommend the addition of an additional bullet that reads, "Did the adaptive management measures have the intended effect?"
- Prior to the commencement of construction, the FS should also make clear who is financially responsible for various research, monitoring and management work anticipated for the project, and who will control the various contracts.
- Attachment 1 of the ROD (page 1-7) notes that the Deerfield Wind Site "will be available as a laboratory for future research and monitoring for the life of the Project in order to investigate direct and indirect impacts to natural resources, including birds and bats." We support this approach and find it in keeping with the public land setting for the project.

- The FS should ensure that all data collected regarding wind energy generation by the project, and from ongoing monitoring, research, adaptive management and related studies be made available to the public in a timely and transparent fashion. We recommend that the FS provide the public with a summary of ongoing activities and web-based access to project-generated information. Siting of the project on public lands warrants an open book policy with respect to these types of project information. This information could then contribute to improved analysis of other project proposals in the future.
- Beyond public disclosure requirements, the FS should also explain how decisions will be made in the future regarding operation of the wind farm based on any impacts that are detected through monitoring. The FS monitoring plan should be expanded to describe the actions the FS will take should an unanticipated or unacceptable impact occur. The monitoring/mitigation plans should also include mechanisms to address time lags between the collection of monitoring data and management actions. In addition, it would be helpful if other parts of the plan describe impact thresholds and corresponding actions that would be taken by the FS and/or others (including but not limited to state and federal agencies and Deerfield Wind).
- We expect the Forest Service to coordinate closely with bear experts at the Vermont Agency of Natural Resources and staff of the Vermont Public Service Board to confirm that Condition 11 of the April 16, 2009 Certificate of Public Good Issued Pursuant to 30 V.S.A Section 248 (Page 3, Docket Number 7250) is met prior to construction. Condition 11 reads, "Deerfield shall file a proposal, for approval by the Board, for the land it proposes to conserve as a mitigation measure for the impact of the Project on bears. The proposal shall conserve at least 144 acres of land that is comparable to the remote, high elevation area of concentrated beech stands impacted by the Project."

We support the FS proposals to work with a range of state and federal agencies to develop relevant aspects of monitoring, mitigation and management of the project. EPA would appreciate the opportunity to participate in that work with the FS, especially as it relates to stormwater and erosion control plans, and more broadly as it relates to discussions about adaptive management to address potential and identified project impacts.

Future Coordination

EPA encourages the FS to coordinate more closely with EPA on future projects during scoping and EIS development. Our comments on the SDEIS suggested increased interagency coordination to help with the alternatives development process. While the FEIS does not directly respond to our suggestion, we do not believe it is for a lack of interest. Opportunities for coordination on a range of project issues, including the identification of alternatives, impact

assessment, and mitigation and monitoring program design (including the development of adaptive management plans), exist before, during, and post—NEPA review. EPA looks forward to enhanced coordination with the FS on this and future projects.

Please feel free to contact Timothy Timmermann of the Office of Environmental Review at 617/918-1025 if you would like to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Curtis Spalding', written in a cursive style.

H. Curtis Spalding
Regional Administrator

cc:

Bob Bayer, Project Coordinator, Green Mountain National Forest
Forrest Hammond, Vermont Agency of Natural Resources